

EX PARTE OR LATE FILED

LAW OFFICES

COHN AND MARKS

DOCKET FILE COPY ORIGINAL

SUITE 600

1333 NEW HAMPSHIRE AVENUE, N. W.  
WASHINGTON, D. C. 20036-1573

STANLEY S. NEUSTADT  
STANLEY B. COHEN  
RICHARD M. SCHMIDT, JR.  
JOEL H. LEVY  
ROBERT B. JACOBI  
ROY R. RUSSO  
RONALD A. SIEGEL  
LAWRENCE N. COHN  
RICHARD A. HELMICK  
WAYNE COY, JR.

MARK L. PELESH  
J. BRIAN DE BOICE  
ALLAN ROBERT ADLER  
CHARLES M. OLIVER

OF COUNSEL  
MARCUS COHN  
LEONARD H. MARKS

SUSAN V. SACHS  
JOHN R. PRZYPYSZNY  
WILLIAM B. WILHELM, JR.\*

\*MEMBER PENNSYLVANIA BAR ONLY

TELEPHONE (202) 293-3860

TELECOPIER (202) 293-4827

DIRECT DIAL:

(202) 452-4813

May 5, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Suite 222  
Washington, D.C. 20554

RECEIVED

MAY 5 1994

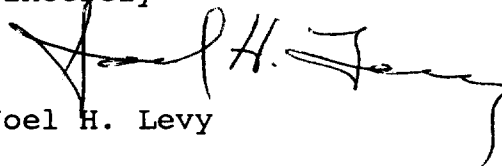
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation to the Office of Chairman  
Reed Hundt re: Further Proceedings in GN Docket  
No. 93-252, Regulatory Treatment of Mobile  
Services

Dear Mr. Caton

On May 4, 1994, in accordance with section 1.1206 of the Commission's Rules, the undersigned filed a notice of an oral ex parte presentation with Chairman Reed Hundt's Office. The attached document was distributed to the Chairman and his staff during yesterday's meeting but was inadvertently omitted from yesterday's filing. Please associate this transmittal letter and the enclosure with Docket 93-252.

Sincerely

  
Joel H. Levy

Enclosure

cc: Office of Chairman Reed Hundt

No. of Copies rec'd  
List ABCDE

041

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

MAY 5 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the matter of

PARKWAY PAGING, INC.  
1200 Commerce, Suite 110  
Plano, TX 75093

v.

SOUTHWESTERN BELL MOBILE  
SYSTEMS

To: The Commission

RESPONSE TO INFORMAL COMPLAINT

Southwestern Bell Mobile Systems, Inc. ("SBMS"), pursuant to Section 208 of the Communications Act of 1934, as amended (the "Act"),<sup>1</sup> and Section 1.717 of the Commission's Rules,<sup>2</sup> hereby submits this Response to Informal Complaint made by Parkway Paging, Inc. ("Parkway").

SBMS Response

Attached to this Response is SBMS' form of Reseller Agreement. SBMS will tender this Reseller Agreement to Parkway for the sole purpose of entering into negotiations with Parkway for Parkway to become a reseller of SBMS' cellular service. This agreement is the same agreement that any other resellers of SBMS cellular service have executed and is bound by:

<sup>1</sup>47 U.S.C. §208.

<sup>2</sup>47 C.F.R. §1.717.

subject to an agreement between SBMS and Parkway on the terms of a Reseller Agreement, SBMS will allow Parkway to resell its cellular service. However, this will be done under the normal situation, which means that Parkway will buy blocks of numbers and minimum airtime from SBMS and can then resell those blocks to its customers. SBMS has no intention of allowing Parkway to connect a cellular switch up to SBMS' switch in any form or fashion. Parkway has cited no authority, nor can they, to require such an arrangement between SBMS and Parkway, or any other potential reseller of cellular service. Neither the F.C.C., nor any state commission have required an arrangement similar to the one sought by Parkway.

The applicable Sections of the Act, namely Sections 201(b)<sup>47</sup> and 202(a)<sup>47</sup> only require that any agreement by SBMS not be "(u)njust and unreasonable" or "unreasonably discriminatory" regarding Parkway. By offering Parkway the same reseller agreement offered to all other resellers, SBMS is fully complying with its statutory obligations.

In docket #88-11-040, the California Public Utility Commission ("CPUC") has previously addressed the question of a cellular service reseller connecting its own switch to a facilities-based carrier's switch. After a full hearing on the question, the CPUC declined to grant the reseller's request. To SBMS' knowledge, no other state (nor the F.C.C.) has ever addressed the issue, much less required such connections.

<sup>47</sup> 47 U.S.C. §201(b).

<sup>47</sup> 47 U.S.C. §202(a).

As stated above, SBMS intends to allow Parkway to resell on the same terms and conditions as any other reseller of SBMS' cellular service, and Parkway is entitled to no different treatment than other resellers.

WHEREFORE, for the foregoing reasons, SBMS respectfully requests that Parkway's informal complaint be dismissed.

Respectfully submitted,

SOUTHWESTERN  
SYSTEMS, INC.

BY:  MOBILE

By:

Wayne Watts

Richard A. Blackwell

17330 Preston Road, Suite 100A  
Dallas, TX 75258  
Telephone 214-733-2008  
Facsimile 214-733-2011

1\parkway.r09